

**Executive Summary – Enforcement Matter – Case No. 45302**  
**RIVER CITY READY MIX, INC.**  
**RN105833735**  
**Docket No. 2012-2174-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - MSW, WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

C & K Land Moving, New city block No. 17639, Lot P-213, Property ID No. 664742, San Antonio, Bexar County

**Type of Operation:**

Concrete manufacturing business

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 24, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,000

**Amount Deferred for Expedited Settlement:** \$4,000

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$600

**Total Due to General Revenue:** \$15,400

Payment Plan: 35 payments of \$440 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 45302**  
**RIVER CITY READY MIX, INC.**  
**RN105833735**  
**Docket No. 2012-2174-MLM-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 25, 2012

**Date(s) of NOE(s):** October 9, 2012

***Violation Information***

1. Failed to obtain a development permit prior to altering or disturbing a closed municipal solid waste ("MSW") landfill [30 TEX. ADMIN. CODE § 330.954(a) and (e)].
2. Failed to correct a lack of vegetative growth, ponding of water, and erosion of cover material at the closed landfill [30 TEX. ADMIN. CODE § 330.463(a)(1)].
3. Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000. Specifically, Respondent was operating a concrete manufacturing business without a TPDES permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c)].
4. Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 100 cubic yards of MSW including, but not limited to, wood boards, tires, metal cans, plastic containers, tiles, rebar, and demolition debris were disposed of at the Facility [30 TEX. ADMIN. CODE § 330.15(c)].
5. Failed to prevent unauthorized discharges into or adjacent to any water in the state. Specifically, Respondent was discharging concrete wash onto the ground at the Facility [TEX. WATER CODE § 26.121(a)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Immediately:
  - i. Cease disposing of any additional MSW at the Facility;
  - ii. Cease discharging concrete wash onto the ground above the closed MSW landfill; and

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**Docket No. 2012-2174-MLM-E**

iii. Cease interrupting, disturbing, or altering the final cover at the closed MSW landfill until proper authorization has been obtained from the Commission.

b. Within 30 days:

i. Remove all MSW from the Facility and dispose of it at an authorized facility;

ii. Remove all ponded water on the area over the closed MSW landfill and fill in the area in which the ponding occurred, correct effects of erosion, and begin maintaining vegetative growth;

iii. Submit an administratively complete registration application for existing structures built over closed MSW landfills; and

iv. Develop and begin implementing a storm water pollution prevention plan and submit a Notice of Intent to comply with the requirements of TPDES MSGP No. TXR050000.

c. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a. and b.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Andrea Park, Enforcement Division,  
Enforcement Team 6, MC R-12, (713) 422-8970; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Arturo Lopez, President, RIVER CITY READY MIX, INC., P.O. Box  
681085, San Antonio, Texas 78268-1085

**Respondent's Attorney:** N/A



DATES	Assigned	8-Oct-2012	Screening	24-Oct-2012	EPA Due	
	PCW	24-Oct-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	RIVER CITY READY MIX, INC.
Reg. Ent. Ref. No.	RN105833735
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	45302	No. of Violations	5
Docket No.	2012-2174-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Andrea Park
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$20,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	<b>0.0%</b> Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$0
Notes	No adjustment for compliance history.
<b>Culpability</b>	<b>0.0%</b> Enhancement <b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$0
<b>Economic Benefit</b>	<b>0.0%</b> Enhancement* <b>Subtotal 6</b> \$0
Total EB Amounts	\$641
Approx. Cost of Compliance	\$11,664
*Capped at the Total EB \$ Amount	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$20,000
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> <b>Adjustment</b> \$0
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
	<b>Final Penalty Amount</b> \$20,000
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$20,000
<b>DEFERRAL</b>	<b>20.0%</b> Reduction <b>Adjustment</b> -\$4,000
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	
Notes	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	<b>\$16,000</b>

Screening Date 24-Oct-2012

Docket No. 2012-2174-MLM-E

PCW

Respondent RIVER CITY READY MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 45302

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105833735

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 24-Oct-2012

Docket No. 2012-2174-MLM-E

PCW

Respondent RIVER CITY READY MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 45302

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105833735

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.954(a) and (e)

Violation Description

Failed to obtain a development permit prior to commencing physical construction of an enclosed structure over a closed municipal solid waste ("MSW") landfill. Specifically, several enclosed structures and a metal signpost are located on the property that have penetrated the cover of the closed MSW landfill.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 5

152 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five monthly events are recommended from the May 25, 2012 investigation to the October 24, 2012 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$249

Violation Final Penalty Total \$6,250

This violation Final Assessed Penalty (adjusted for limits) \$6,250

# Economic Benefit Worksheet

**Respondent** RIVER CITY READY MIX, INC.  
**Case ID No.** 45302  
**Reg. Ent. Reference No.** RN105833735  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	25-May-2012	24-May-2013	1.00	\$249	n/a	\$249

Notes for DELAYED costs

Estimated cost to submit an administratively complete application for existing structures built over closed MSW landfills. The date required is the investigation date, and the final date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$249



Screening Date 24-Oct-2012

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PCW

Respondent RIVER CITY READY MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 45302

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105833735

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.463(a)(1)

Violation Description

Failed to correct a lack of vegetative growth, ponding of water, and erosion of cover material at the closed landfill.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

152 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the May 25, 2012 investigation to the October 24, 2012 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$209

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** RIVER CITY READY MIX, INC.  
**Case ID No.** 45302  
**Reg. Ent. Reference No.** RN105833735  
**Media** Municipal Solid Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,000	25-May-2012	24-May-2013	1.00	\$10	\$199	\$209
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to correct vegetative growth and ensure that ponding does not occur. The date required is the investigation date, and the final date is the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$209

Screening Date 24-Oct-2012

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PCW

Respondent RIVER CITY READY MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 45302

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105833735

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

## Violation Description

Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000. Specifically, the Respondent was operating a concrete manufacturing business without a TPDES permit.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 5

152 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five monthly events are recommended from the May 25, 2012 investigation to the October 24, 2012 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$6,250

This violation Final Assessed Penalty (adjusted for limits) \$6,250

# Economic Benefit Worksheet

**Respondent** RIVER CITY READY MIX, INC.

**Case ID No.** 45302

**Reg. Ent. Reference No.** RN105833735

**Media** Municipal Solid Waste

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	25-May-2012	24-May-2013	1.00	\$100	n/a	\$100
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to submit a Notice of Intent and develop and implement a storm water pollution prevention plan ("SWP3") to obtain a TPDES MSGP. The date required is the investigation date, and the final date is the estimated compliance date.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$2,000

**TOTAL**

\$100

Screening Date 24-Oct-2012

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PCW

Respondent RIVER CITY READY MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 45302

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105833735

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 100 cubic yards of MSW including, but not limited to, wood boards, tires, metal cans, plastic containers, tiles, rebar, and demolition debris were disposed of at the Facility.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

152 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the May 25, 2012 investigation to the October 24, 2012 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** RIVER CITY READY MIX, INC.  
**Case ID No.** 45302  
**Reg. Ent. Reference No.** RN105833735  
**Media** Municipal Solid Waste  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,664	25-May-2012	24-May-2013	1.00	\$83	n/a	\$83
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

Estimated cost to remove all MSW from the Facility and dispose of it at an authorized facility. The date required is the investigation date, and the final date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,664

TOTAL

\$83

Screening Date 24-Oct-2012

Docket No. 2012-2174-MLM-E

PCW

Respondent RIVER CITY READY MIX, INC.

Policy Revision 3 (September 2011)

Case ID No. 45302

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105833735

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 5

Rule Cite(s)

Tex. Water Code § 26.121(a)(2)

Violation Description

Failed to prevent unauthorized discharges into or adjacent to any water in the state. Specifically, the Respondent was discharging concrete wash onto the ground at the Facility.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

152 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the May 25, 2012 investigation to the October 24, 2012 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** RIVER CITY READY MIX, INC.

**Case ID No.** 45302

**Reg. Ent. Reference No.** RN105833735

**Media** Municipal Solid Waste

**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

## Notes for DELAYED costs

The cost to implement procedures to prevent future discharges is included with the cost to implement the SWP3 in the Economic Benefit for Violation No. 3.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

## Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0





# Compliance History Report

**PENDING** Compliance History Report for CN600522098, RN105833735, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600522098, River City Ready Mix, Inc.

**Classification:** SATISFACTORY

**Rating:** 41.67

**Regulated Entity:**

RN105833735, C & K LAND MOVING BCAD  
PROPERTY ID 664742

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Complexity Points:**

N/A

**Repeat Violator:** N/A

**CH Group:**

14 - Other

**Location:**

New city block No. 17639, Lot P-213, Property ID No. 664742, SAN ANTONIO, TX, BEXAR COUNTY

**TCEQ Region:**

REGION 13 - SAN ANTONIO

**ID Number(s):**

**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER**  
UNA455130230

**Compliance History Period:** September 01, 2007 to August 31, 2012

**Rating Year:** 2012

**Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** October 17, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 17, 2007 to October 17, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Andrea Park

**Phone:** (713) 422-8970

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If YES for #2, who is the current owner/operator?   | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)?                                     | N/A |
| 5) If YES, when did the change(s) in owner or operator occur?                                      | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RIVER CITY READY MIX, INC.  
RN105833735**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-2174-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding RIVER CITY READY MIX, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates a concrete manufacturing business at new city block no. 17639, lot P-213, property ID no. 664742, in San Antonio, Bexar County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 14, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Six Hundred Dollars (\$600) of the administrative penalty and Four Thousand Dollars (\$4,000) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Fifteen Thousand Four Hundred Dollars (\$15,400) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Forty Dollars (\$440) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As operator of the Facility, the Respondent is alleged to have:

1. Failed to obtain a development permit prior to altering or disturbing a closed MSW landfill, in violation of 30 TEX. ADMIN. CODE § 330.954(a) and (e), as documented during an investigation conducted on May 25, 2012.

2. Failed to correct a lack of vegetative growth, ponding of water, and erosion of cover material at the closed landfill, in violation of 30 TEX. ADMIN. CODE § 330.463(a)(1), as documented during an investigation conducted on May 25, 2012.
3. Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c), as documented during an investigation conducted on May 25, 2012. Specifically, the Respondent was operating a concrete manufacturing business without a TPDES permit.
4. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on May 25, 2012. Specifically, approximately 100 cubic yards of MSW including, but not limited to, wood boards, tires, metal cans, plastic containers, tiles, rebar, and demolition debris were disposed of at the Facility.
5. Failed to prevent unauthorized discharges into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2), as documented during an investigation conducted on May 25, 2012. Specifically, the Respondent was discharging concrete wash onto the ground at the Facility.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: RIVER CITY READY MIX, INC., Docket No. 2012-2174-MLM-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order:

- i. Cease disposing of any additional MSW at the Facility;
  - ii. Cease discharging concrete wash onto the ground above the closed MSW landfill; and
  - iii. Cease interrupting, disturbing, or altering the final cover at the closed MSW landfill until proper authorization has been obtained from the Commission.
- b. Within 30 days after the effective date of this Agreed Order:
  - i. Remove all MSW from the Facility and dispose of it at an authorized facility;
  - ii. Remove all ponded water on the area over the closed MSW landfill and fill in the area in which the ponding occurred, correct effects of erosion, and begin maintaining vegetative growth, in accordance with 30 TEX. ADMIN. CODE § 330.961(d);
  - iii. Submit an administratively complete registration application for existing structures built over closed MSW landfills, in accordance with 30 TEX. ADMIN. CODE § 330.959; and
  - iv. Develop and begin implementing a storm water pollution prevention plan and submit a Notice of Intent to comply with the requirements of TPDES MSGP No. TXR050000 to:

Storm Water and Pretreatment Team, MC148  
Texas Commission on Environmental Quality  
Storm Water Processing Center, MC 228  
P.O. Box 13087  
Austin, Texas 78711-3087
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

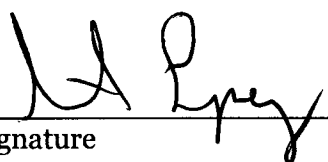
6/7/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

4/8/13  
Date

Arturo Lopez  
Name (Printed or typed)  
Authorized Representative of  
RIVER CITY READY MIX, INC.

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.